

State of California
Department of Industrial Relations
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, May 23, 2012
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: May 11, 2012

RE: Closed Session of the Board to be held on May 23, 2012

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. CLOUT CONSTRUCTION, 11-R4D1-1889 AND 1892
2. DUTKO HARDWOOD FLOORS, INC., 11-R4D1-0030 THROUGH 0034
3. MARK GARRETT DBA GARRETT WOODWORKING, 11-R6D2-2543 THROUGH 2547

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 2

1. ABCO LABORATORIES, INC., 11-R2D2-0502 AND 0535
2. ABRASIVE BLASTING AND COATING, INC., 11-R2D2-0434
3. ALCO IRON AND METAL CO., 12-R1D2-0200
4. ALL-AMERICAN SCAFFOLD, 10-R1D5-3924 AND 3925
5. APPTRON, INC. DBA SMITH & LARSEN, 11-R4D2-1204 AND 1205
6. ASHLEY FURNITURE INDUSTRIES INC., 12-R6D2-0725
7. A. TEICHERT & SON INC., DBA TEICHERT READY MIX, 09-R2D1-3973 THROUGH 3976
8. BCI COCA COLA BOTTLING COMPANY OF LOS ANGELES, 11-R4D2-2573
9. BEAUMONT CHERRY VALLEY WATER DISTRICT, 12-R3D3-0129
10. BECHO, INC., 12-R5D1-0723
11. BETTENDORF ENTERPRISES DBA BETTENDORF TRUCKING, 09-R2D1-1671 AND 1672
12. BRISTOW GROUP DBA BRISTOW ACADEMY, INC. 11-R2D2-0545
13. CARAVAN TRAINING COMPANY, 12-R1D4-0771 THROUGH 0773
14. CBC FRAMING, 11-R4D3-2908
15. CITY OF L.A. GENERAL SERVICES, PARKING SERVICES, 12-R4D3-0101
16. CLYDE CONSTRUCTION INC., 11-R6D7-1830
17. STEVEN CORNELL, 11-R4D3-1553 AND 1554
18. CVUSD LEUZINGER HIGH, 11-R4D1-2679
19. DAN DRAKE ENTERPRISES LLC, 10-R6D7-3173 AND 3174
20. DEVINCENZI CONCRETE CONSTRUCTION, 11-R1D5-0599
21. EL BAJIO PACKING, INC., 11-R6D7-2489
22. ENDPACK PACKAGING, INC., 12-R3D6-0062 AND 0063

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 3

23. FREMONT BANK, 11-R1D4-1594
24. G&G REBAR INC., 09-R1D5-1059 AND 1060
25. GOLDEN TOUCH LANDSCAPING, INC., 11-R1D3-1489 AND 1490
26. GROVER GONZALES, INC., 11-R6D7-1868 AND 1869
27. J.A. CONTRACTING LABOR MANAGEMENT INC., 11-R6D7-2623
28. J. McLOUGHLIN ENGINEERING CO., INC., 11-R3D6-2676
29. JOHNSON TREE SERVICE, LLC, 10-R2D2-3097 THROUGH 3099
30. JOHN MOURIER CONSTRUCTION, INC., 11-R6D7-2450
31. JOHN T. MALLOY, INC., 11-R4D3-3160
32. JOSEPH J. ALBANESE, INC., 11-R1D3-0835 THROUGH 0837
33. KENNY BLEVINS LATH PLASTERING INC., 11-R6D7-2482 THROUGH 2488
34. K.S. INDUSTRIES, 10-R2D5-3277 AND 3278
35. KUDU INCORPORATED DBA SAHARA PACKING, 11-R3D2-2438
36. LANCASTER BURNS CONSTRUCTION INC., DBA LB CONSTRUCTION,
11-R6D7-2449
37. LA VOIE & SONS CONSTRUCTION, 10-R2D2-1355 AND 1356
38. MENZIES AVIATION, 11-R4D1-2180
39. MICHAELS/JAYDEE/COLUCCIO JOINT VENTURE, 11-R5D1-0388
40. MI PUEBLO SAN JOSE, INC. DBA MI PUEBLO FOOD CENTER, 10-R1D4-2888
AND 2889
41. THOMAS, FRANK & LOUIE MULLER DBA JOE MULLER & SONS,
11-R2D1-2496
42. NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK),
10-R1D4-4102
43. NORTH AMERICAN FOAM & COMBINING CO., 11-R3D6-2897 AND 2898

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 4

44. OLDCASTLE GLASS, 10-R1D2-2483
45. OMNISTONE MASONRY INC., 10-R1D5-4008 AND 4009
46. ELIE R. OREIRO DBA E.M. OREIRO CONSTRUCTION, 11-R2D4-0440 AND 0441
47. PACIFIC STEEL CASTING COMPANY, 12-R1D4-0421
48. DONALD E. PEARA DBA DONALD E. PEARA, DDS, 12-R2D4-0941
49. JASON PEARCE DBA PEARCE CONSTRUCTION, 11-R3D5-2364
50. POWAY GARDEN RD SELF STORAGE & OFFICES, 11-R3D2-0956 THROUGH 0959
51. QUALITY STRUCTURES INC., 11-R3D2-1927 AND 1928
52. R. COOPER CONSTRUCTION, INC., 08-R2D1-3274
53. RDO DBA VERMEER PACIFIC, 11-R4D2-2442
54. CHAKRADHER REDDY (OWNER), 10-R6D7-3499 AND 3500
55. RND CONTRACTORS INC., 11-R6D2-1584 AND 1585
56. ROBERT MONDAVI ENTERPRISES, INC. DBA WOODBRIDGE WINERY, 11-R6D3-1215 THROUGH 1219
57. CARLOS RODRIGUEZ DBA TIGERS AUTO BODY, 11-R6D7-1401 AND 1402, 11-R6D7-1481
58. RUBEN'S GLASS SERVICE INC., 12-R6D2-0931
59. SAN DIEGO UNIFIED SCHOOL DISTRICT, 12-R3D2-0706
60. SANTA FE AGGREGATES, 10-R5D1-2953 AND 2954
61. SANTA FE AGGREGATES, 10-R5D1-3660
62. SECURE STAFF, INC., 12-R6D2-0587 THROUGH 0590
63. SIERRA LABOR INC., 11-R2D5-0474
64. SIERRA PACIFIC INDUSTRIES, 09-R2D1-1727 THROUGH 1730

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 5

65. SODEXO HEALTH CARE, 11-R4D2-0200 AND 0201
66. SOLARCITY CORP. DBA SOLAR CITY, 11-R1D1-2557 AND 11-R1D1-2653
67. SONNY CARWASH LLC, 12-R2D1-0047
68. SPECIALTY RESTAURANTS CORP. DBA MONTEREY HILL STEAK,
11-R4D2-1167 THROUGH 1169
69. STANFORD UNIVERSITY, 11-R1D3-0570
70. STEEP HILL LABS, INC., 11-R1D4-1369 AND 1370
71. TARGET CORP., 11-R3D5-2503 AND 2504
72. TEEN CHALLENGE, 11-R2D5-1118
73. TFG MANAGEMENT HOLDCO TOLL GLOBAL FORWARDING, 12-R6D2-0459
THROUGH 0464
74. VALVOLINE INSTANT OIL CHANGE, 10-R3D2-1206 AND 1207
75. VORTOX AIR TECHNOLOGIES, INC., 11-R6D2-1063 THROUGH 1071

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
AND 3792

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. FRG OIL, INC. DBA INSTANT SMOG CHECK, 11-R3D2-1056
2. ROSAL AUTO RECYCLERS, INC. DBA CONTINENTAL TOWING, INC.,
10-R2D2-1050 THROUGH 1052
3. WILLIAMS JANITORIAL, 12-R2D5-9047

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 6

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. A-CO TEMPORARY POWER, 10-R4D1-3110 AND 11-R4D1-9206
3. ALLIED SALES & DISTRIBUTION, INC., 11-R6D2-0480
4. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
5. AC TRANSIT, 08-R1D4-0135
6. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
7. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
8. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
9. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
10. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
11. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
13. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
AND 3448
14. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
15. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CENTRAL VALLEY ENGINEERING & ASPHALT, INC.
08-R2D1 5001 AND 5002
18. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
19. COMMERCIAL METAL FORMING, 09-R3D1-1592
20. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
21. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 7

22. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
23. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
24. DELTA TRANSPORTATION, INC., 08-R2D1-4999
25. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
26. DESIGN BUILDERS, INC., 08-R4D4-1901
27. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
28. DUKE PACIFIC, INC., 08-R3D3-574
29. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
30. EZ MIX, INC., 08-R4D3-1898
31. FDO INC. DBA GRAND AMERICAN DOORS, 10-R6D2-1215 THROUGH 1219
32. FORTUNA IRON WORKS 06-R2D3-4222
33. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
34. HOLLINGER CONSTRUCTION INC., 11-R4D1-0891
35. HOME DEPOT, 10-R3D6-3284
36. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
37. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
38. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
39. LION RAISINS, INC., 08-R2D5-2253 AND 2254
40. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
41. MARINE TERMINALS, 08-R6D2-1920
42. McPHERSON ENTERPRISES, INC., 10-R2D5-0995
43. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
44. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 8

45. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
46. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
47. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
48. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
49. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
50. POUK & STEINLE, INC., 09-R3D3-0491
51. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
52. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
53. SDCCD – CONTINUING EDUCATION N C CENTER, 11-R3D2-1196
54. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
55. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
56. SHERWOOD MECHANICAL, INC., 08-R3D2-4690 THROUGH 4693
57. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
58. SMUD, 08-R2D1-4887 THROUGH 4889
59. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
60. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
61. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
62. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
63. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
64. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 09-R4D5-0459 AND 0460
65. THAYER CONSTRUCTION, INC., 09-R3D3-4206 THROUGH 4208

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 9

66. VIC ROSS'S MASONRY, INC., 11-R3D2-0708 AND 0709

LEGISLATION:

(Discussion of pending legislation which may require Board analysis pursuant to Government Code section §6254(l))

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
2. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
3. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
4. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
5. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
6. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
7. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
8. SMUD, 34-2010-80000723 (08-R2D1-4887)
9. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
10. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
11. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965 (10-0188~0191)

CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For May 23, 2012
Page 10

12. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
13. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
14. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
15. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
16. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039
(07-R2D3-0275)
17. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)

COURT OF APPEAL

1. JERLANE, INC., D060844 (2007-00056381) (01-4344 and 4345)

PERSONNEL:

(Issues regarding staff)

Any matter not completed at this Closed Session may be continued to subsequent meetings.